

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LANDMARK TECHNOLOGY, LLC,

Plaintiff,

v.

CINEMARK HOLDINGS, INC., et al.,

Defendants.

CASE NO. 6:11-cv-91 (LED)

JURY TRIAL DEMANDED

**PLAINTIFF LANDMARK TECHNOLOGY, LLC'S ANSWER TO DEFENDANT
GAIAM, INC.'S ANSWER AND COUNTERCLAIMS TO LANDMARK'S
FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Landmark Technology, LLC ("Landmark") hereby responds as follows to the Answer and Counterclaims of Gaiam, Inc. ("Gaiam") asserted in response to Landmark's First Amended Complaint for Patent Infringement. Except as expressly admitted herein, Landmark generally denies all allegations in Gaiam's Counterclaims. Landmark expressly denies that Gaiam is entitled to any relief whatsoever in connection with its Counterclaims, including, but not limited to, all relief requested in the Prayer for Relief in Gaiam's Counterclaims.

THE PARTIES

1. Responsive to Counterclaim Paragraph 1, on information and belief, Landmark admits the allegations.
2. Responsive to Counterclaim Paragraph 2, Landmark admits the allegations.

NATURE OF THE COUNTERCLAIMS AND JURISDICTION

3. Responsive to Counterclaim Paragraph 3, on information and belief, Landmark admits that Gaiam's Counterclaims arise under Title 35 of the United States Code. No further response is required by Landmark. To the extent any response is required, Landmark denies Gaiam is entitled to the requested relief.

4. Responsive to Counterclaim Paragraph 4, on information and belief, Landmark admits the allegations

5. Responsive to Counterclaim Paragraph 5, Landmark admits the allegations

COUNTERCLAIM COUNT I
NON-INFRINGEMENT OF THE '951 PATENT

6. Responsive to Counterclaim Paragraph 6, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.

7. Responsive to Counterclaim Paragraph 7, Landmark denies the allegations.

8. Responsive to Counterclaim Paragraph 8, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

COUNTERCLAIM COUNT II
NON-INFRINGEMENT OF THE '319 PATENT

9. Responsive to Counterclaim Paragraph 9, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.

10. Responsive to Counterclaim Paragraph 10, Landmark denies the allegations.

11. Responsive to Counterclaim Paragraph 11, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

COUNTERCLAIM COUNT III
NON-INFRINGEMENT OF THE '508 PATENT

12. Responsive to Counterclaim Paragraph 12, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.

13. Responsive to Counterclaim Paragraph 13, Landmark denies the allegations.
14. Responsive to Counterclaim Paragraph 14, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

COUNTERCLAIM COUNT IV
INVALIDITY OF THE '951 PATENT

15. Responsive to Counterclaim Paragraph 15, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.
16. Responsive to Counterclaim Paragraph 16, Landmark denies the allegations.
17. Responsive to Counterclaim Paragraph 17, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

COUNTERCLAIM COUNT V
INVALIDITY OF THE '319 PATENT

18. Responsive to Counterclaim Paragraph 18, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.
19. Responsive to Counterclaim Paragraph 19, Landmark denies the allegations.
20. Responsive to Counterclaim Paragraph 20, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

COUNTERCLAIM COUNT VI
INVALIDITY OF THE '508 PATENT

21. Responsive to Counterclaim Paragraph 21, Landmark incorporates by reference its responses to Paragraphs 1-5 above as though fully set forth herein.
22. Responsive to Counterclaim Paragraph 22, Landmark denies the allegations.
23. Responsive to Counterclaim Paragraph 23, to the extent any response is required, Landmark denies that Gaiam is entitled to the requested relief.

PRAYER FOR RELIEF

WHEREFORE, Landmark prays that this Court enter judgment against Gaiam on

Gaiam's Counterclaims as follows:

- A. Dismissing Gaiam's Counterclaims with prejudice and ordering that Gaiam is entitled to no recovery whatsoever on its Counterclaims, including without limitation all relief sought in Gaiam's Prayer for Relief in its Counterclaims;
- B. Ordering that this is an exceptional case, pursuant to 35 U.S.C. § 285, and awarding Landmark its attorney fees and full costs of suit; and
- C. Awarding Landmark such other and further relief as this Court deems just and proper.

DATED: October 17, 2011

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFF,
LANDMARK TECHNOLOGY, LLC

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service are being served this 17th day of October, 2011, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Charles Ainsworth
Charles Ainsworth